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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/509,008

06/02/2005

Antti Sorvari

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1243

4955 7590 10/16/2007

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EXAMINER

BROOKS, SHANNON

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

10/16/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/509,008

Applicant(s)

SORVARI ET AL.

Examiner

Shannon R. Brooks

Art Unit

2617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) ~~the date~~ in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE


8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

See attached

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


CHARLES N. APPIAH
SUPERVISORY PATENT EXAMINER

The Applicant argues that Averbuch does not teach a delay of task execution in the PU. However, Averbuch teaches that the reception of stored blocks in the portable (task execution) will be delayed, for instance by preemption (Col. 6, lines 10 -19), if the battery charger/software downloader does not receive, acknowledge, and store all of the blocks of data sent from the server (Fig. 4, Block 418, and Col. 6, lines 1-41). Further, Averbuch teaches a setting of a priority level in each PU that indicates the delay tolerance (priority level, Col. 5, lines 13-27) in each portable unit (PU). Based on the priority level and the usage profile, downloads can be scheduled more efficiently. Additionally, the download process is initiated by the user connecting the PU to the charger/downloader. The user may elect to delay connecting the PU to the charger/downloader thereby delaying task execution in the PU. Therefore, the claim limitation of teaching a delay of task execution in the PU is met.

The Applicant argues that "storing said instructions in a queue in said terminal" is not in Averbuch. The Examiner clearly combined Averbuch with Kahn to meet this claim limitation, as set forth in the final office action.

The Applicant argues that Averbuch does not teach "checking in said terminal whether said terminal is coupled to charging device." However, Averbuch teaches that flag detection (set or unset) is an indication as to whether or not the PU is connected to the charger/downloader. Averbuch specifically states that charger/software downloader may cooperate with the processing unit (204) and memory (206) of the portable wireless unit to determine if the flag is set (Col. 4, lines 54 -67). Therefore, since the battery charger may cooperate with the PU, the claim limitation of "checking in said terminal whether said terminal is coupled to charging device" is met.

The Applicant argues the combinations of Averbuch with Nishiyama and also Desai. However, Nishiyama and Desai are exemplary references from a relevant subclasses used to meet the claim limitations set forth in the final office action.